

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6377

BILL NUMBER: SB 317

NOTE PREPARED: Dec 12, 2004

BILL AMENDED:

SUBJECT: Expungement of Criminal Records.

FIRST AUTHOR: Sen. Bowser

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides for the expungement of the arrest records of a person whose conviction has been vacated if the state may not or will not refile charges against the person.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record.

Explanation of Local Expenditures: This bill would likely have a minimum impact on trial courts. Under current law, if an individual's conviction has been vacated and the state is neither permitted nor intends to refile charges against an individual, the individual has no legal foundation to petition the court to expunge the records related to the initial arrest.

This bill would permit an individual in this situation to petition the court to expunge the arrest records if certain conditions are met. This would be done in the same manner as if the person was arrested but no criminal charges were filed, if all criminal charges were dropped, if the individual had been mistaken for another person, if no offense had been committed, or if there was an absence of probable cause. The individual would file this petition in civil court.

To allow for an individual whose conviction has been vacated to have their arrest records expunged, the court could either grant the petition for expungement, schedule a hearing, or deny the petition.

Any added costs to the state court system will depend on the frequency by which convictions have been vacated and the individual has no other criminal charges pending.

A local law enforcement agency may oppose the expungement and has 30 days to file a notice with the court opposing the expungement.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees.

State Agencies Affected:

Local Agencies Affected: Trial courts with criminal jurisdiction; local law enforcement agencies.

Information Sources:

Fiscal Analyst: Mark Goodpaster, 317-232-9852.